

Repairs made under a safety related recall are not taxable and this is true whether the manufacturer makes the repairs or pays someone else to make the repairs. (This is a GIL).

June 30, 2000

Dear Xxxxx:

This letter is in response to your letter received July 26, 1999. We apologize for the delay in our response. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

WE ARE REQUESTING SOME INFORMATION ON TAXING RECALLS THAT ARE PERFORMED HERE AT OUR DEALERSHIP. WE HAVE HEARD THAT SOME DEALERSHIPS THAT ARE IN THE AREA ARE HAVING TO TAX THE RECALLS. HOWEVER, NO INFORMATION HAS BEEN PASSED ALONG TO INFORM US OF HOW OR IF WE HAVE TOO. WE ARE SIMPLY ASKING IF YOU COULD PLEASE SEND US SOME INFORMATION REGARDING WHETHER OR NOT THIS IS NECESSARY FOR OUR AREA, AND HOW WE WOULD GO ABOUT DOING THIS. PLEASE SEND THE NECESSARY INFORMATION IN MY ATTENTION TO: [NAME/ADDRESS. IF A TAX IS NOT NECESSARY, THEN WE WILL NEED SOME KIND OF LETTER STATING THAT A TAX IS NOT NECESSARY. THANK YOU VERY MUCH. IF YOU NEED TO CONTACT ME, I CAN BE REACHED AT #####.

In regards to recall situations, the Department identified two possible scenarios, safety related recalls and non-safety related recalls. Safety related recalls generally occur when a manufacturer recalls a particular product line to correct a manufacturing defect that relates to product safety. Such recalls can be made either on the manufacturer's own initiative or as the result of a recommendation by a governmental agency. In either event, when repairs are made in this situation, no tax is incurred as a result of those repairs even if the repairs are not required by the manufacturer's express warranty. This is so because manufacturers make an implied warranty that the items they sell are free from safety-related manufacturing defects. Repairs made under a safety related recall are not taxable and this is true whether the manufacturer makes the repairs or pays someone else to make the repairs.

The other possible recall scenario relates to non-safety related recalls which generally occur when a particular product line is recalled by a manufacturer to correct a non-safety related defect in materials and workmanship. So long as the manufacturer is required to correct the defect as the

result of an enforceable agreement included in the retail selling price of the vehicle that the vehicle was being purchased free of manufacturing defects and the repairs are necessary to correct a manufacturing defect, no tax liability is incurred as a result of the repair. This is true whether manufacturer makes the repairs or pays someone else to make the repairs. It is also true even if the repairs are required to be made outside the time limits contained in the manufacturer's express warranty.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk